



# **The Commonwealth of Massachusetts**

## **Department of Public Safety**

### **Architectural Access Board**

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**Thomas P. Hopkins**  
Executive Director

### **Board Meeting Minutes – October 31, 2016**

#### **21<sup>st</sup> Floor – Conference Room 3**

#### **Present Board Members:**

- Diane McLeod, Acting Chair (DM)
- David D'Arcangelo, Massachusetts Office on Disability Director (DD)
- George Delegas, Member (GD)
- Andrew Bedar, Member (AB)
- Dawn Guarriello, Member (DG)
- Jane Hardin, Member (JH)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)
- Deirdre Hosler, Deputy General Counsel (DH)

#### **Members Not Present:**

- Walter White, Chair (WW)
- Raymond Glazier, Massachusetts Office on Elder Affairs Designee (RG)

- Meeting began at approximately 9:05 a.m.

#### **1) Discussion: Board Member Roll Call**

DM - all but RG and GD present

2) Discussion: Paul J. Moriarty's Letter from September 6, 2016 – Advisory Opinion regarding Electrical Vehicle Charging Stations

- DH - look at them in one respect as charging stations, but also have to look at it as separate parking  
- our regulations only apply to 15 or more spaces  
- 5% is not a rule that is in section 23  
- can also look at it as an amenity, but there is not a general section for amenities that require 5%  
- two options: look at it as a part of a place of assembly (Chapter 14), would be considered a “related area”; therefore all of the EV stations would have to be accessible, then have them pursue a variance for only 5% to be accessible  
- or look at it as parking and only apply to when there are 15 or more EV charging stations  
- it may be addressed in the proposed regulations, but can only enforce the current regulations  
- should not have to wait to make new rules for something that is in place now and this is why advisory opinion is in place
- AB - are there any conflicts with 780 CMR?  
DH - unsure, but no regulations currently for EV charging stations in 780 CMR
- DD - one of the pushes is to have a public charging station for wheelchairs as well  
- not going to enforce on-street charging stations  
DH - depends on how you look at it, if it's parking then no
- TH - wheeled mobility devices are not using the stations, since there are no electric vehicles
- DG - would not count the EV towards the number of parking spaces
- JH - grant a variance for only 5%, but not less than 1, not to be considered as part of parking, based on the jurisdiction under 521 CMR 14 and not 521 CMR 23*
- DG - second – carries unanimously*

**DH left for the day**

3) Incoming Discussion: Greenhouse Apartments, 150 Huntington Ave., Boston (V15-121)

- TH - originally heard in 2015, relative to sidewalk slopes; previously granted all of the Huntington Avenue areas as proposed  
- EXHIBIT – plans submitted by Andrew St. John, delivered on October 25, 2016  
- seeking additional variances for Cumberland Street and West Newton Street off of Huntington Avenue, cross slope issues  
- cross slopes are greater than 2%
- AB - when you come up the corners, it is part of the sidewalk
- DM - yes, do need to know the cross slopes along those areas in question, since they are on the sidewalk
- AB - continue for more information regarding the slopes, by 11/9/16*
- DD - second – carries with DG abstaining*
- TH - same property, but issue with lift  
- was brought up by the Petitioners  
- existing lift that serves pool deck

- submitted variance for access to the pool deck, granted a variance for the use of the elevator in the 1980 initial review of the case
- variance was for car size
- lift does not even meet a definition of incline lift
- elevator inspector was refusing to issue a new certificate for the lift

*AB - continue to have the petitioners submit plans with dimensions regarding the routes to the pool, including the accessible route to the pool and if the lift is covering an egress stair*

*JH - second – carries with DG abstaining*

4) Incoming: Long Wharf Custom House Block, 62-70 Long Wharf, Boston (V16-304)

- TH - EXHIBIT- variance application and supplemental information
- gut renovation, spending over 30%
  - proposing to install an elevator and 2 stair towers
  - seeking to install a vertical wheelchair lift in lieu of a full elevator

DD - what is the track record for access?

- TH - they are doing a full gut rehab, more access is now being created
- seeking a variance for the lift to access between the 5<sup>th</sup> and 6<sup>th</sup> floors only

*DD - grant as proposed, with the understanding that if a tenant expands their space to another level, will need a variance for the tenant space*

*JH - second – carries unanimously*

5) Incoming Discussion: West Chelmsford United Methodist Church, 242 Main St., North Chelmsford (V16-257)

- TH - presented three times before
- EXHIBIT- 10/19/16 email from Dale Gienapp, including plans showing an internal accessible route
  - currently at construction documents and design phase

*DG - accept the plan as proposed, on the condition constructed as submitted*

*GD - second – carries unanimously*

6) Incoming Discussion: Ichabod Washburn Hospice, 1183 Main St., Worcester (V10-028)

- TH - EXHIBIT – 10/25/16 Greg O'Connor sent request to amend the original decision of the Board from May 2010
- building being converted to sober living and detox facility for the area that was previously “moth-balled”
  - due to insurance requirements, must have separate entrance to the new spaces
  - seeking a variance for the installation of a new vertical wheelchair lift in lieu of creating a new ramp

*DD - grant as proposed*

*JH - second – carries unanimously*

***Raymond Glazier, Executive Office of Elder Affairs Designee (RG) – Now present***

7) Discussion: Boston Sports Club, 135 Wells Avenue, Newton (C14-159)

- TH - EXHIBIT – 10/25/16 submittal of request to abate the fines from Stuart Steinberg, seeking full abatement of the \$18,000 in fines  
- case started in 2014  
- August 22, 2016 fines began at a rate of \$500 per day on a seven-day basis  
- on 10/17/16 stopped the fines based on the submittal of compliant photos, and an assertion from the Complainant that she was satisfied with the method of compliance  
- typically abate down to 5% of the overall cost

DG - *reduce the fines to \$3,000, due within 14 days receipt of decision*

JH - *second – carries with RG opposed*

DG - *expedite*

RG - *second – carries unanimously*

8) Incoming: Fox Hill Yacht Club, 114 Ballard St., Saugus (V16-298)

- TH - EXHIBIT – variance application and supplemental information  
- seeking a variance for an internal ramp next to stairs, seeking a variance for 38” between handrails

RG - *grant as proposed*

AB - *second – carries unanimously*

9) Incoming Discussion: Athenaeum, 6 Elm St., Westfield (V13-068)

- TH - seeking a time variance for an additional 30 days for asbestos abatement, closing a portion of the library; in the meantime will advertise alternate methods of service and  
- EXHIBIT – 10/28/16 letter from Daniel Paquette, Director of Library

DD - *grant time variance as proposed*

JH - *second – carries unanimously*

10) Incoming Discussion: PCEA NEMA Church, 201 Coburn St., Lowell (V16-268)

- TH - originally voted to meet with the architect and schedule a hearing  
- EXHIBIT – submittal of an affidavit and parking map by Anthony Nganga, received 10/31/16  
- first variance for the lack of access at the other entrances, there will be three accessible entrances

DG - *grant for 25.1*

JH - *second – carries with RG opposed*

- TH - second variance for the lack of vertical access to the second floor  
- there are two rooms (111 and 112) at the second floor that are open to the public  
- the rooms are 900 square and 600 square feet  
- compliant rooms at the first floor, where they can provide accommodations  
- rooms will be used as classrooms for religious educations

RG - *grant as proposed*

AB - *second – carries unanimously*

TH - last variance for bathrooms at the front of the building, and accessible bathrooms are at the rear, near the new accessible entrance lobby  
- four existing bathrooms will not be accessible

*DG - grant as proposed*

*AB - second – carries unanimously*

TH - affidavit submitted for vestry and stage

*JH - accept the affidavit regarding the usage of the vestry and the platform*

*GD - second – carries unanimously*

11) Incoming: Trolley Loading Platform, Shelburne Falls, Ashfield St., Buckland (V16-297)

TH - EXHIBIT – variance applications and supplemental information  
- new passenger loading platform with compliant stairs  
- person that uses a wheelchair, boards the trolley via the museum  
- seeking a variance for the lack of a ramp at the end of the trolley route

*JH - grant as proposed*

*RG - second – carries unanimously*

12) Incoming: Sherman Gardens Elderly Housing, 131 Sycamore Street, Belmont (V16-277)

TH - EXHIBIT – variance application and supplemental information  
- rebuilding 10 front entrances  
- 6 two-story buildings, with 80 dwelling units for the elderly  
- spending \$130,000  
- jurisdiction is work performed  
- design is complete and construction contract has been executed  
- seeking variance to not create access at the 10 entrance  
- first case was V10-122, Sherman Gardens first phase of work, granted variance for no access

JH - asking to allow the updates without access

TH - work is ready to begin  
- previous order required compliant handrails and landings at the door, but granted no accessible entrances

JH - new updated will have compliant handrails and extensions

*JH - grant, on the condition that entrances will have compliant stairs, handrails, and landings*

*DG - second – carries unanimously*

13) Incoming: Gunderson House, McLean Hospital, 5 & Spruce Ave., Cambridge (V16-296)

TH - EXHIBIT – variance application and supplemental information  
- jurisdiction is 3.3.1a  
- variance for width between the ramp handrails  
- width is 36”

*AB - grant as proposed*  
*DG - second – carries unanimously*

***AB left the room***

14) Discussion: YMCA, 445 Central St., Stoughton (V14-312)

TH - EXHIBIT – submittal of e-mail from Matt Pelletier on 10/19/16, seeking time extension to deadline for compliance of 10/31/16  
- due to additional sprinkler work, changes to scope of work in lower level locker rooms  
- 6 items will be completed, 3 items to be completed by 12/31/18  
- upper level men's and women's locker rooms; areas of refuge at the northwest corner of the building; accessible ramp from daycare area to the adjacent playground  
- accessible locker rooms at lower level, new lifts, modifications to existing ramps, railings and door hardware; new exterior walkways to playground

*DD - grant time variance for the three items requested, to allow until 12/31/18 for the work to be completed, on the condition that verification of the work that has been completed is submitted to the Board*

*DG - second – carries unanimously*

***AB now present***

15) Incoming: Mixed Use Building, 163 Newbury St., Boston (V16-299)

TH - EXHIBIT – variance application and supplemental information  
- typical case, but want it to go in your packets

*DG - place in packets for 11/14/16 meeting*

*DD - second – carries unanimously*

16) Incoming: Fowler Clark Epstein Farm, 487 & 487R Norfolk St. and 47 Hosmer St., Mattapan (V16-302)

TH - EXHIBIT – variance application and supplemental information  
- spending over 30%  
- 13 variance requests

*DG - put in packet for 11/14/16 meeting*

*AB - second – carries unanimously*

17) Incoming Discussion: Golda Meir House, 160 Stanton Ave., Newton (V16-260)

TH - granted variances for bottom freezers and lack of access to trash chutes on 9/26/16, required submittal of policy for trash chute access  
- EXHIBIT – 10/28/16 submittal of policy from Golda Meir House accessibility policy  
- would like to put it in your packet for review at next meeting

*DG - put it in the packet for 11/14/16*

*AB - second – carries unanimously*

18) Discussion: 274 Franklin St., Worcester (V14-314)

- TH - held a hearing on 9/26/16  
- all items were due on 10/12/16  
- EXHIBIT – letter from Eric Shaughnessy on October 24, 2016  
- will submit plans after approval of affidavit

AB - *accept the affidavit as submitted*

DG - *second – carries unanimously*

AB - *require signed and notarized affidavit, and all other required documentation as previously ordered submitted by 11/9/16*

DG - *second – carries unanimously*

DG - *expedite*

AB - *second – carries unanimously*

*(Please note that it was later determined that additional documents for this case were misplaced. Therefore, the case will be presented to the Board again on November 14, 2016.)*

19) Incoming: Myra Hiat Kraft Bridge, 284 Highland Street, Worcester (C16-025 & V16-305)

- TH - monument stone set in memory of Myra Kraft, significant settlement at both ends of the bridge  
- EXHIBIT – complaint and variance application and supplemental information  
- stone dust paths up to the bridge  
- have modified with a temporary ramping  
- asked to waive the two-week waiting period

DG - *waive the two-week waiting*

RG - *second – carries unanimously*

- TH - asking for a time variance to create a permanent solution  
- slope of the patch is 6-7% up to the bridge, want time to fix that  
- seeking until August 1, 2017

JH - *grant a time variance to allow until 8/1/17 for the transition to the bridge from the pathway to be permanently in place*

AB - *second - carries*

***William Joyce, Compliance Officer for the Board (WJ) – Now present***

20) Advisory Opinion: Grills – 521 CMR 32.1; 1610 Worcester Road, Framingham

- WJ - would outdoor grills be required to comply in an apartment complex?  
- provided as an accommodation, so require to comply with cooktop or not

DM - 10.1 public and common use area

DG - googled accessible grills and found some online, but \$2600

WJ - would be required to provide a route to the space, but unsure if the actual grill would be required to comply with 521 CMR 32.8 as a public use kitchen and comply with the cooktop regulations  
- controls would have to comply

JH - more of a recreational space  
- but a common area and would have to provide access to it

*AB - must comply with 521 CMR 10.1, and therefore 521 CMR 20 and 39*

*JH - second – carries unanimously*

21) Hearing: Elevator at 525 Talbot Avenue, Boston (C16-026)

DM - called to order at 11:15 a.m.  
- introduce the Board

William Joyce, Compliance Officer for the Board (WJ)  
Ed Sandell, Dept. of Public Safety Elevator Supervisor (ES)  
Michael Kinchla, DiSola Development (MK)

DM - all sworn in  
- EXHIBIT 1 – AAB1-15

ES - visited the property in May of 2016  
- conducted a compliant visit  
- elevator listed as 1-P-7102, expired in 2005  
- expired and not listed for inspection  
- while at the property, tenant granted access  
- identified as inspector, was told by tenant that the elevator was not working for many years  
- placarded the unit, issued a citation for expired certificate since expired in 2005  
- filed complaint since no elevator and no access to 4 story apartment building  
- looking at it now  
- elevator was decommissioned on 10/21/16 and has been removed completely  
- Benchmark Elevator removed the elevator

WJ - first notice issued on May 16, 2016  
- second notice on June 13, 2016  
- issued a hearing notice for the present  
- Mr. Kinchla spoke with Kate Sutton on Friday, 10/28; and spoke with me this morning

MK - received approval from Boston ISD in 2008, when cited for having an elevator that was not in working order  
- notified all existing tenants that elevator would be decommissioned  
- ISD for Boston allowed the decommissioning of the elevator in May 22, 2008

DM - why not come to the Board

MK - was not aware that needed to come before the Access Board, complying with Boston ISD  
- when the certificate expired in 2005, notice was posted to repair or not use; so chose not to use the elevator



- DM - Decision from May 22, 2008, EXHIBIT 2  
- letter from Boston ISD, EXHIBIT 3
- MK - Benchmark Elevator filed the permit to decommission the elevator in July of 2016
- DM - accept the submittal of the permit to decommission from DPS Elevator Division as EXHIBIT 4
- WJ - complaint was under 521 CMR 2.6, for failure to maintain  
- issue at hand is if this is a violation of 521 CMR 3.4, reduction of access to less than required in new construction
- MK - constructed in 1963 and 31 units in the building
- DD - constructed with elevator
- MK - 3.5 stories above grade  
- 3 access points into the building, half a flight of stairs up and down  
- ISD reviewed the case and noted as 3.5 story building
- DM - application to building commissioner for permit, labeled as EXHIBIT 5  
- contract from Benchmark Elevator is EXHIBIT 6
- KS - stairs at each entrance
- MK - multiple sets of stairs into the building
- WJ - not clear if accessible units even required  
- no proof to trigger accessible units
- KS - contingency is that the reduction of access to the requirements for new construction
- WJ - even if they triggered full compliance, would not trigger an elevator anyways
- DG - common lobby for elevator
- MK - elevator shaft was centered in middle of hallway  
- have decommissioned elevators in other buildings
- WJ - failure to maintain access feature; removal of elevator is compliance, since not required to provide elevator
- DG - why did it take 8 years to have it decommissioned?  
MK - several members of the company, had to come to an agreement of removal versus doing the work to upgrade and maintain the elevator
- MK - in 2010 got approval for decommission
- GD - *find in favor of the complainant*  
DG - *second – carries unanimously*

- DG - close the case based on the fact that the elevator has been decommissioned  
JH - second – carries unanimously

***WJ left the room***

22) Incoming: Gordon Hall, Mass. Audubon Society, 208 South Great Rd., Lincoln (V16-306)

- TH - EXHIBIT – variance application and supplemental information  
- proposing to construct a public unisex single-user toilet room at the ground floor near the entrance  
- other bathrooms are on the second floor and basement level (521 CMR 30.2)  
- proposing 61” by 115” for single-user toilet room dimensions (521 CMR 30.7)

- DG - grant as proposed  
DD - second – carries unanimously

23) Incoming Discussion: Dance Department Offices and Administration, Smith College, 47 Belmont St., Northampton (V16-252)

- TH - voted to schedule a hearing; a hearing is scheduled  
- EXHIBIT – email from Laura Fitch, 10/21/16. Seeking a temporary certificate of occupancy, until such time that the hearing can be held and the matter can be resolved

- RG - approve the temporary certificate of occupancy on the condition that the Petitioners abide by the Board’s decision at the January 2017 hearing  
AB - second – carries unanimously

24) Incoming: Essex County Jail and House of Correction, 20 Manning Ave., Middleton (V16-301)

- TH - EXHIBIT – variance application and supplemental information  
- roof and HVAC replacement  
- spending over \$100,000, required to provide accessible entrance and toilet room  
- seeking variance for sink counter height, providing 36”; 521 CMR 30.9.2 requires 34”

- AB - grant on the condition that one sink is modified to provide the 27” clear of knee clearances, by cutting the bar, but maintaining the structure of the sink  
RG - second – carries unanimously

25) Incoming: Elm Street Market, 4 Elm St., Stockbridge (V16-303)

- TH - EXHIBIT – variance application and supplemental information  
- spending over 30%  
- seeking a variance to 26.6.1, level landing at the entrance door  
- landing slope is 1:10

- AB - grant on the condition that an automatic door opener is installed  
RG - second - carries unanimously

- TH - proposing to have counter seating remain and will provide new seating  
- new transaction counter will comply  
- existing toilet room will comply

- sought a variance to 3.2, but did not note what is not in compliance

*DG* - continue discussion regarding request for 3.2

*DD* - second – carries unanimously

### ***Break for Lunch***

### ***All but DG present***

26) Incoming: Essex North Shore Agricultural and Technical High School, 562 Maple St., Hathorne (V16-294)

- TH - EXHIBIT – variance application and supplemental information
- seeking a variance for ramp slopes due to two seasons of freeze and thaw that has altered the slopes
  - reconstruction would be subject to the same variations
  - EXHIBIT – 10/14/16 letter from Independent Living Center of North Shore and Cape Ann, Shawn McDuff; opposed to variance requested, due to maintenance of access features
  - EXHIBIT – 10/20/16 e-mail Lisa Cammarata, from Salem Commission on Disabilities; reviewed application for variance on 10/18/16, do not support the variance application
  - slopes are 7.25%-8.99%

*GD* - deny

*DD* - second – carries unanimously

### ***DG now present***

27) Incoming Discussion: Dwelling House, 4 Leighton St., Fitchburg (V14-053)

- TH - EXHIBIT – 10/28/16 submittal from Paul Martell AIA, new drawings for fix of door swings at the wheelchair lift (SKA-A 0.1)
- did allow an occupancy for the building, and in the process of having the work done

*RG* - accept the plan and require photographs and certificate of inspection of the lift upon completion of the work

*DG* - second – carries unanimously

28) Incoming: Quincy Pediatric Associates, Inc., 191 Independence Ave., Quincy (V16-300)

- TH - EXHIBIT – variance application and supplemental information
- project is renovation of first floor; spending over 30% (521 CMR 3.3.2)
  - seeking variance from having to connect basement and first floor (521 CMR 20.1/28.1)
  - basement has accessible waiting area, exam rooms and entrance
  - first floor has 17 exam rooms
  - July 19, 2016 letter from Quincy Pediatrics regarding proposed project and accommodation policy
  - all patients come through the basement entrance and waiting area

*DD* - deny

*DG* - second – carries unanimously

29) Incoming Discussion: Carmelina's Restaurant, 120 Salem St. and 124-126 Salem St., Boston (V16-240)

TH - EXHIBIT – 10/27/16 e-mail from Norton Remmer, submittal of drawing A1-A3, proposing an incline wheelchair lift  
- previously granted a variance for the installation of a ramp and granted the lack of a level landing at the top of the lift

JH - *accept the use of the incline wheelchair lift, on the condition that a variance is sought and granted from the Board of Building regulations and standards, if that is an egress stair*

DD - *second – carries unanimously*

DG - *require the submittal of the egress analysis*

DD - *second – carries unanimously*

30) Incoming: Multi-use building, 1360 Cambridge St. and 221 Hampshire St., Cambridge (V16-293)

TH - EXHIBIT – variance application and supplemental information  
- spending is over 30%  
- brick multi-use building, built in 1896 and 1920 with entrances on Cambridge and Hampshire Street  
- tenant fit-out project  
- ground floor tenant  
- project includes connecting stair to second level  
- seeking a variance for 28.1 for the lack of vertical access between the first and second floor  
- adding work stations at the floor below, the stair will make it so people don't have to go outside of the tenant space

GD - *continue for more information regarding access to the second level, i.e. how is it accessible from grade*

AB - *second – carries unanimously*

31) Incoming: Beechwood Playground, 65 Doane St., Cohasset (C16-044 & V16-295)

TH - EXHIBIT – complaint filed in June 2016; variance application and supplemental information  
- seeking time variance for a year to comply

***DD left the room***

TH - playground work needs to be done during warm weather and when children are not present  
- also need funding to do the work via seeking out a grant

AB - *grant time variance on the contingency that the work be completed by first day of school for the 2017/2018 school year, plans for compliance and a progress report submitted to the Board by January 2, 2017 and every 6 months thereafter*

DG - *second – carries unanimously*

***DD now present***

32) Incoming Discussion: Temporary Acton Town Hall Offices, 33 Nagog Park, 2<sup>nd</sup> Floor, Acton (V14-241)

TH - EXHIBIT – 10/03/16 R. Gabriel Zavalla, AIA, seeking continued use of the space for additional time extension  
- seeking to hold a special meeting on 10/5/16 to request funds for the work  
- have not heard anything from the Town since then

AB - *continue to require the submittal of more information regarding the results of the special town meeting*

DD - *second – carries unanimously*

**33) Incoming Discussion: Topsfield Town Hall, 8 West Common St., Topsfield (V16-249)**

TH - EXHIBIT – e-mail from Shawn McDuff of Independent Living Center of North Shore and Cape Ann on 10/25/16  
- on 10/17/16 granted a variance for the lack of a compliant route from the seating to the stage  
- cancelled the hearing based on that review  
- ILC requests condition that door between seating area and stage be left open during any event serving persons with disabilities or requiring access to the stage during an event  
- that area also serves as a green room

RG - *uphold the previous decision and state that when a person or group with disabilities is waiting to go up to the stage the door along the route shall be held open to create an unimpeded path of travel*

DG - *second – carries unanimously*

***DM left the room  
DD acting as chair***

**34) Discussion: The Lampost, 6 Circuit Ave., Oak Bluffs (V15-019)**

TH - appeared at a hearing in November of 2015 and came up with a plan for the building, including vertical access between levels  
- EXHIBIT - 8/29/16 e-mail from Adam Cummings, representative for the owners of the building  
- looking to convert the top three floors of the building into housing, while maintaining the two lower levels as the restaurant  
- EXHIBIT – 10/24/16 e-mailed Cummings to ask for status of the project  
- EXHIBIT – 10/24/16 e-mail from Cummings stating that they are still working on the plans for the project; plans to be submitted within the next 30 days

DG - *require that both pictures and plans of the work performed and proposed to be submitted to the Board by no later than December 31, 2016*

JH - *second – carries unanimously*

***DM now present and acting as chair  
GD left the room***

**35) Incoming Discussion: House of Peace and Education, Inc., 29 Pleasant St., Gardner (V16-254)**

TH - after first review on 9/12/16, voted to have me meet with the Petitioners  
- met with the Petitioners

- called the building official, Jeffrey Cook, during the meeting with the Petitioners
- EXHIBIT – 10/17/16 received requested material from Jeffrey Cook, noting that there are no records on file from the Gardner Fire Department; no records
- would like to continue again to review the project

*AB - continue and have the Board staff seek additional information regarding work performed on the building*

*RG - second – carries unanimously*

***GD now present***

36) Incoming: Playground, 54 Vinal Avenue, Scituate (C15-138)

DM - called to order at 2:08

- introduce the Board

William Joyce, Compliance Officer for the Board (WJ)  
Thomas Hopkins, Executive Director for the Board (TH)

DM - WJ and TH were sworn in

- EXHIBIT 1 – AAB1-49

WJ - received the complaint late last yesterday

- first notice issued on 2/2/16
- no response, so second notice sent on 2/23/16
- 3/10/16 received letter from James Toomey, Town Counsel for Scituate stating that path would be re-graded and access to the playground would be upgraded
- letter was used as basis for Stipulated Order issued on 3/10/16
- e-mail from Brandon Moss, new Town Counsel for Scituate on 10/25/16, with letter attached noting that the playground was relocated with photos of the playground as it currently exists

DM - e-mail and pictures from Moss on 10/25/16 accepted as EXHIBIT 2

WJ - responded to Moss stating that accessible route still not provided all the way to the equipment

- Kerry Jenness, associate of Moss submitted on 10/25/16, including the photographs of the route to the area
- did notify Ms. Jenness stating that wood fiber does not comply
- e-mail from Vogel of Scituate Building Department stating that wood fiber meets ADA standards, received on 10/28/16
- Jenness sent e-mail requesting continuance of case on 10/28/16

DM - pictures of the playground and the route to it, accepted as EXHIBIT 3

TH - called Kerry Jenness on Friday afternoon to let her know that the wood fiber was not considered an accessible route to the structure

- told her that the Board would continue the case to require the submittal of compliant plans

WJ - would like them to be expeditious, since this case has been ongoing for a year

*DD - within 30 days receipt of the decision, submit plans for compliance in accordance with 19.7*

*GD - second – carries unanimously*

*DD - proposed plan be implemented by 5/1/17*

*JH - second – carries unanimously*

*DD - expedite*

*RG - second – carries unanimously*

37) Incoming Discussion: Triple decker, 9 Alleghany St., Roxbury (V16-223)

TH - first presented on 8/8/16

- project was at the design phase at that time, and they were seeking variances for no access within the building

- continued to 9/1/16 to require plot plan and full stamped drawings of the building

- brought back to the Board on 10/17/16, and then got moved to today due to end of time

*DG - schedule a hearing*

*RG - second – carries unanimously*

38) Discussion: First Unitarian Universalist Church, 630 Mass. Ave., Arlington (14-111)

TH - EXHIBIT – 8/16/16 letter from Dick Peneli, received on 9/12/16

- work required by the 8/14 decision from a hearing requiring submittal of information by 9/1/16

- assessment of front door patio and walkway completed; still completing schematic design for the kitchen

- due to repayment of loan for recent renovation work, fundraising may be delayed

*JH - require update of meeting results and plans and timeline for compliance submitted by November 9, 2016*

*AB - second – carries unanimously*

*DG - expedite*

*JH - second – carries unanimously*

39) Discussion: Town Hall, 9 Main St., West Stockbridge (V13-330)

TH - EXHIBIT – status report received on 9/28/16 for the June 1, 2016 required status report, submitted by Robert Solerno, President of the West Stockbridge Historic Society

- status update raised \$17,500 from private donors, and another \$10,000 from events

- hearing in April of 2014, status reports were required to start in June 2016

***DM left the room***

***DD acting as chair***

*DG - accept status and have TH report back at next meeting*

*RG - second – carries unanimously*

40) Discussion: Meeting Minutes from 10/17/16

*AB - accept the meeting minutes from 10/17/16*

*DG - second – carries unanimously*

41) Hearing: Maynard Theatre Place, 17-21 Summer Street, Maynard (V16-207)

DD - called to order at 3 p.m.  
- introduce the Board

Glenn Davis, AIA, Davis Architects (GDa)

Richard Asmann, Building Commissioner (RA)

Andrew Gately, Esq. (AG)

Steven Trumble, Fine Arts Theater Place (ST)

DD - all sworn in  
- EXHIBIT 1 – AAB1-27

GD - one item not in the packet on a board

DD - accept board submitted digitally as EXHIBIT 2

GDa - EXHIBIT 2, shows surrounding theaters in the area  
- old theater palace showing movies  
- Maynard Theatre built in 1939, previously a Pontiac car dealership  
- large murals showing off Asian arts  
- prior to Steven purchasing the building, owner divide the second theater and put in a partition  
- removed seats in the late 1970's/early 1980's  
- went before the plumbing board in 2010, granted a variance for the addition of up to 10 fixtures within the building  
- when Steven bought the building it had been closed for awhile  
- the building is land-locked

DD - board is different  
KS - same plan on AAB 27 and pictures on AAB 17-25

GDa - expanded the women's room  
- AAB23 is a picture of behind the men's room, and lower photo shows behind the women's room  
- HVAC ductwork behind the toilet room that is serving Theater 1  
- AAB18, Theater 1 overview  
- small shallow stage in Theater 1  
- there is a steep ramp going to one exit and a shallower slope around the back  
- upholstery has not been upgraded, but all other finishes have been upgraded  
- café is part of the complex, and would be open prior to the theater being open  
- café is currently not open, but Steven would like to bring the café back  
- AAB24, shows view of kitchen on the top of the page  
- ramp between theater and the café entrance, is near compliance  
- was built in 1949 as a means of egress out of the theater  
- stage is a 6-8" stage, but occasionally do have performances at the Theater 1 stage

ST - here for variance for the lack of an accessible toilet room  
- been open for 2 years, the building was closed down and almost condemned  
- had shut the heat off, but have left the water on; so a lot of damage



- have not had any complaints; have one lady that knows to go to the bathroom before and had to have one gentleman use the toilets within the women's room under staff supervision
  - do not have room to create an accessible toilet room
  - put in fire suppression system for \$50,000
  - had to replace electrical and plumbing as well
- GDa - have the recommendation from Massachusetts Historic Commission
- read the comments from Massachusetts Historic Commission letter, submitted as exhibit
- DD - accept as EXHIBIT 3
- GDa - seeking a variance for the lack of access to the stage in Theater 1, the lack of compliant slope at the ramp to the entrance by the proposed café, and the lack of accessible toilet rooms
- the largest space is Theater 1
- RA - project started in 2013, indicated that there was a point at which they would be required to provide an accessible bathroom
- when they came in for Phase 2 and 3, were told that they would be triggering the work
  - they are currently well over 30% of the full and fair cash value of building
  - in June of 2014 met with them and told them they would be triggering the 30% jurisdiction
  - Theater 3 was created illegally in the 1980's, were required to install a fire suppression system
  - in June 2014 told the Petitioners that an accessible toilet room was required
  - the café has not been a restaurant or cafeteria for the past 12 years
  - 9 years ago, there was a change of use to a service use, because a photographer took over that area and used it as a retail space; no longer considered a cafeteria
  - never heard of attempts to register the building as a historic structure with Mass Historic
  - came to attention that Theater 3 was open this summer, even though there was no permit for occupancy of the theater, was told that the Fire Chief gave approval, but the Fire Chief states he did not give approval
  - newspaper article stated that owner spent over \$1 million
  - Plumbing Board issued the decision, with the understanding that an additional toilet room would be provided when Theater 3 was open, based on the local Plumbing Inspector's interpretation of the decision from the Plumbing Board
- JH - what is the occupancy for the theater?
- GDa - Theater 1 – 385 seats; Theater 2 – 70; Theater 3 – 140
- DD - 595 based on testimony
- DG - 580 based on provided plans
- RA - agree with that
- JH - even without consideration of accessible toilet room, need more toilets within the structure
- maybe provide a large unisex toilet room, and reconfigure men's and women's toilet rooms
  - have to make the toilet rooms a priority
  - good business to make the bathrooms accessible
- ST - agree that good business
- not just finances, it's a matter of the lack of space

- would have to close the theater or take walls down
- widened the bathrooms as much as possible
- GD - biggest issue is the bathroom, and the lack of an accessible toilet room
- how often is the stage used for performances
- GDa - 6-8" change in level up to the stage
- GD - could provide a portable ramp to create access up to the stage
- GD - secondary entrance ramp, should just install automatic door openers
- ST - the space was a café in the past, but there was an occupancy permit that was requested and approved for the café use
- GD - café does not have access to the theater
- ST - no it does not
- GD - will also need an accessible toilet room for the café
- AB - what is the slope of the aisle ramps?
- a copy of the plumbing board's decision
- 10 water closets for the men and 12 for women
- AAB26 plan was a test?
- GDa – yes
- RA - submittal of decision from the Plumbing Board
- GDa - did some tests at the rear of the men's room, but would have to provide a corridor and would have to have the space to a unisex toilet room
- AB - any wheelchair seating locations?
- GDa - traditional seating
- have removed the seating, but there is no level platform
- ST - there is a level platform at the front of the theater
- same done with Theater 2 and 3, left seats out and have a level area
- AB - Theater 3, rail on the wall?
- ST - no rail, it's a wainscoting/molding
- RG - no dispersed seating for wheelchairs
- uncomfortable to sit in the very front and straining neck to see a show
- TH - 521 CMR 14.4.1, movie theaters are not allowed to be provided at the front of the theater
- DG - have you conducted a full analysis of access to understand what the issues are within the building, based on the fact that full compliance with 521 CMR has been triggered
- appears to be more variances that will be required
- is there parking provided or just street parking?
- GDa - parking across the street, with curb cuts and a walkway provided
- GDa - slopes provided for the other two theaters when created, slope of approximately 7-8%

- DG - where do the exit doors for the Theater 1 go to, are they level at the rear
- GDa - left of Theater 1 stage has a sharp slope
- DG - need to have the actual measurements of the slopes provided  
- need a comprehensive report with dimensions and details of what exists and test plans
- TH - the variance from the Plumbing Board had a condition (issued in February 2014) that all plumbing material brought up to compliance with current code
- ST - replaced all the plumbing
- TH - no occupancy permit for Theater 3
- ST - Theater 3 was allowed to be used until the appeal process completed
- DD - Plumbing Board decision marked as EXHIBIT 4
- RG - take the matter under advisement*
- DG - second – carries unanimously*
- GD - comprehensive assessment of the building regarding accessibility in accordance with 521 CMR, including but not limited to, access to the stage, wheelchair seating location, the measurement of aisle and ramp slopes, test plans for the installation of a unisex toilet room within the theater building. Also would like clarification as to the proposed café, and the use and measurements of the exterior ramp. All to be submitted by December 5, 2016*
- AB - second – carries unanimously*
- DG - expedite*
- RG - second – carries unanimously*
- TH - first available hearing date is 2/26/16 at 3 p.m.  
- could try to move up if possible
- DG - schedule the hearing for 2/26/16*
- JH - second – carries unanimously*
- ST - fire chief Stokes, wants to put in a system to relay to the Fire Department  
- was told by the Fire Chief that the building was grandfathered for fire suppression
- RA left the room*
- DG - part of the work of the architect is to comply with state building codes  
- not sure of contract, but should be done to have a plan

- End of Meeting -

Matters not reasonably anticipated 48 hours in advance of meeting

- Dwelling House, 4 Leighton St., Fitchburg (V14-053) -10/28/16 submittal from Paul Martell AIA, new drawings for fix of door swings at the wheelchair lift (SKA-A 0.1)
- Carmelina's Restaurant, 120 Salem St. and 124-126 Salem St., Boston (V16-240) - 10/27/16 e-mail from Norton Remmer, submittal of drawing A1-A3, proposing an incline wheelchair lift
- Topsfield Town Hall, 8 West Common St., Topsfield (V16-249) - e-mail from Shawn McDuff of Independent Living Center of North Shore and Cape Ann on 10/25/16

EXHIBITS:

- Greenhouse Apartments, 150 Huntington Ave., Boston (V15-121) - plans submitted by Andrew St. John, delivered on October 25, 2016
- West Chelmsford United Methodist Church, 242 Main St., North Chelmsford (V16-257) - 10/19/16 email from Dale Gienapp, including plans showing an internal accessible route
- Ichabod Washburn Hospice, 1183 Main St., Worcester (V10-028) - 10/25/16 Greg O'Connor sent request to amend the original decision of the Board from May 2010
- Boston Sports Club, 135 Wells Avenue, Newton (C14-159) - 10/25/16 submittal of request to abate the fines from Stuart Steinberg, seeking full abatement of the \$18,000 in fines
- Athenaeum, 6 Elm St., Westfield (V13-068) - 10/28/16 letter from Daniel Paquette, Director of Library
- PCEA NEMA Church, 201 Coburn St., Lowell (V16-268) - submittal of an affidavit and parking map by Anthony Nganga, received 10/31/16
- YMCA, 445 Central St., Stoughton (V14-312) - submittal of e-mail from Matt Pelletier on 10/19/16, seeking time extension to deadline for compliance of 10/31/16
- Golda Meir House, 160 Stanton Ave., Newton (V16-260) - 10/28/16 submittal of policy from Golda Meir House accessibility policy
- 274 Franklin St., Worcester (V14-314) - letter from Eric Shaughnessy on October 24, 2016
- Dance Department Offices and Administration, Smith College, 47 Belmont St., Northampton (V16-252) - email from Laura Fitch, 10/21/16. Seeking a temporary certificate of occupancy, until such time that the hearing can be held and the matter can be resolved
- Temporary Acton Town Hall Offices, 33 Nagog Park, 2<sup>nd</sup> Floor, Acton (V14-241) - 10/03/16 R. Gabriel Zavalla, AIA, seeking continued use of the space for additional time extension
- The Lampost, 6 Circuit Ave., Oak Bluffs (V15-019) - 8/29/16 e-mail from Adam Cummings, representative for the owners of the building; 10/24/16 e-mailed Cummings to ask for status of the project; 10/24/16 e-mail from Cummings stating that they are still working on the plans for the project; plans to be submitted within the next 30 days
- House of Peace and Education, Inc., 29 Pleasant St., Gardner (V16-254) - 10/17/16 received requested material from Jeffrey Cook, noting that there are no records on file from the Gardner Fire Department; no records
- First Unitarian Universalist Church, 630 Mass. Ave., Arlington (14-111) - 8/16/16 letter from Dick Peneli, received on 9/12/16
- Town Hall, 9 Main St., West Stockbridge (V13-330) - status report received on 9/28/16 for the June 1, 2016 required status report, submitted by Robert Solerno, President of the West Stockbridge Historic Society
- Long Wharf Custom House Block, 62-70 Long Wharf, Boston (V16-304) - variance application and supplemental information
- Fox Hill Yacht Club, 114 Ballard St., Saugus (V16-298) - variance application and supplemental information
- Trolley Loading Platform, Shelburne Falls, Ashfield St., Buckland (V16-297) - variance applications and supplemental information

- Sherman Gardens Elderly Housing, 131 Sycamore Street, Belmont (V16-277) - variance application and supplemental information
- Gunderson House, McLean Hospital, 5 & Spruce Ave., Cambridge (V16-296) - variance application and supplemental information
- Mixed Use Building, 163 Newbury St., Boston (V16-299) - variance application and supplemental information
- Fowler Clark Epstein Farm, 487 & 487R Norfolk St. and 47 Hosmer St., Mattapan (V16-302) - variance application and supplemental information
- Myra Hiat Kraft Bridge, 284 Highland Street, Worcester (C16-025 & V16-305) - complaint and variance application and supplemental information
- Gordon Hall, Mass. Audubon Society, 208 South Great Rd., Lincoln (V16-306) - variance application and supplemental information
- Essex County Jail and House of Correction, 20 Manning Ave., Middleton (V16-301) - variance application and supplemental information
- Elm Street Market, 4 Elm St., Stockbridge (V16-303) - variance application and supplemental information
- Essex North Shore Agricultural and Technical High School, 562 Maple St., Hathorne (V16-294) - variance application and supplemental information; 10/14/16 letter from Independent Living Center of North Shore and Cape Ann, Shawn McDuff; 10/20/16 e-mail Lisa Cammarata, from Salem Commission on Disabilities; reviewed application for variance on 10/18/16, do not support the variance application
- Quincy Pediatric Associates, Inc., 191 Independence Ave., Quincy (V16-300) - variance application and supplemental information
- Multi-use building, 1360 Cambridge St. and 221 Hampshire St., Cambridge (V16-293) - variance application and supplemental information
- Beechwood Playground, 65 Doane St., Cohasset (C16-044 & V16-295) - complaint filed in June 2016; variance application and supplemental information